



# Insurance Department

## State of Utah

GARY R. HERBERT

Governor

GREG BELL

Lieutenant Governor

TODD E. KISER

Acting Commissioner

## State of Utah Title and Escrow Commission Meeting Meeting Information

**Date:** June 10, 2013

**Time:** 9:00 AM

**Place:** East Bldg, Spruce Room

### MEMBERS

#### COMMISSION MEMBERS

xChair, Larry Turner Blake, *Washington Cnty*

xJerry M. Houghton, *Tooele Cnty*

xCo-Chair, Kirk Donald Smith, *Weber Cnty*

xDirk Keyes, *Public Member*

Cortlund G. Ashton, *Salt Lake Cnty*

#### DEPARTMENT STAFF

xPerri Babalis, *AG Counsel*

xBrett Barratt, *Deputy Comm.*

Mark Kleinfeld, *ALJ* Suzette

xGreen-Wright, *MC Dir.*

xTammy Greening, *Examiner*

xJilene Whitby, *PIO Recorder*

Tracy Klausmeier, *P&C Director*

#### PUBLIC MEMBERS

Carol Yamamoto

Roy Poll

Pete Stevens

Jim Johnson

James Seaman

Lincoln Scoffield

Tige Garner

Blake Heiner

Russ ?

### MINUTES

#### *General Session: (Open to the Public)*

- **Welcome / Larry Blake, Chair**

Larry started the meeting at 9AM and excused Cort who was unable to attend.

- **Adopt Minutes of Previous Meeting**

- Brett said Matt Sager's last name was misspelled and needed to be corrected on the first page.
- Jerry noted that Lincoln Scoffield's first and last name were in two separate columns on the first page. This should be corrected. Also, Ernest Rowley's name was misspelled in the list of "Public" members on the first page and under "New Business."
- Larry corrected wording in first bullet of page 3. Should read:  
"An attendee said escrow officers were not following lender disbursement instructions."
- Kirk made a **motion** to approve the minutes with the proposed changes, Jerry seconded it and the vote was unanimous.

- **Reports**

- **Concur with Licensee Report / Tammy**

**Motion** by Kirk to approve the report, seconded by Dirk and the vote was unanimous.

- **Concur with Complaint & Enforcement Reports for May & June / Suzette**

**Motion** by Dirk to approve the enforcement reports for May and June, Jerry seconded it and the vote was unanimous.

- **Request for Dual Licensee Expedited Request:** None

- **Request for Attorney Exemption:** None

- **Administrative Proceedings Action / ALJ**

- **Stipulation & Order: Facts are same for both. Individual works for Advanced.**

- **Advanced Title Insurance Agency LC**

Advanced Title and Laren L. Nalder's licenses were lapsed from August 31, 2012 to December 6, 2012. Thirty-four closings were completed during this period.

Licenses of agency and agent were revoked and a forfeiture of \$1,500 set for each. Larry asked how many title searches were done. Jerry said that they first need to determine if a search license is required. Tammy mailed commission members a copy of the letter she sends to a licensee when their license lapses. Larry read the letter aloud. It asks for the number of searches they have done. He noted that it was odd there were no violations on the search side when licenses lapsed and closings were completed.

- **Laren L. Nalder** (*see above*)

Tammy said the date on page 3 should be changed from 2013 not 2012. Mark will make the change. Dirk made a **motion** to approve both stipulations, Kirk seconded it and the vote was unanimous.

- **Request for a Hearing:** None
- **Order to Show Cause:** None
- **Informal Adjudicative Proceeding & Order:** None
- **Formal Adjudicative Proceeding:** None

- **Old Business**

- **Does HB 47 Provide Backup to Regulate Escrow/Mobile Notaries) / Tammy**  
It appears the law provides the necessary backup. We will have to wait and see what happens when it is challenged.
- **Discuss Licensing Requirements for Title Searchers / Brett & Perri.**
  - Perri said that if an individual is issuing a policy or selling, negotiating, soliciting, they must be licensed with a search line of authority. The definition of “solicit” is vague. Representing oneself as being in the insurance business makes it necessary to have an escrow license. A person doing searches only does not need a license.
  - Brett said the Department concluded that because of the definition of “Search” a person does not need a search line of authority to just search.
  - Brett said the term “search” may not be good. Larry suggested “search and examination.”
  - Larry said searches and commitments were done by outside provider. Often when he does split closings he doesn’t know who is doing the search and commitment. Brett said an agency has to work through an individual to issue title insurance. The law requires that the agency be able to show who is doing the business. When you do it over the computer you don’t see the data. In the past the industry wanted search and examinations done by a licensed individual. Is that still the case? [No response.] Brett said the definition of “search” does not require a license. Larry noted that a lot of people think they do.
  - Roy asked if a person in his office quotes a rate, do they need a license?” Perri said they did. If they have the marketing line of authority they are okay. Pete reminded everyone that a search license includes a marketing line of authority.
  - Carol asked if an assistant provides a quote do they need a license? Larry said that if they just prepare documentation then they do not but they cannot quote without one.
- **Discussion of Effect of [H.B. 256](#)’s Non-Reauthorization of [R592-2-7\(2\)](#) and Brett & Perri Will Prepare Rule to be Discussed**  
Perri distributed a copy of an amended R592-2 with a new subsection 7(2) and other clean-up changes. This will be discussed at the next meeting.
- **Discuss Issue of Providing Lenders with Disbursement Schedules, Canceled Checks and Access to all Records, Post Closing / Larry**
  - **Feedback from ULTA**  
James reported that ULTA had not discussed this topic yet. Keep on the agenda.
- **Discussion Re: [31A-19a-209\(3\)](#) and [R592-15-7](#): Requirement that Rates & Charges Cannot be for Less than the Cost of Doing Insurance or Escrow Business / Brett**

Brett said title rates filed with the Department must be justified and certified that they meet their costs. They can't offer something for less than its value. Brett asked for feedback from the industry and has received encouragement to produce a bulletin highlighting the laws in effect on this topic that members of the industry can share with clients or anyone else. The Department contacted Colorado, whose laws are similar to ours, regarding their bulletin. Brett was not convinced that Colorado could enforce their bulletin if it went to court. He asked the Commission if they wanted a bulletin to explain the law here. Commission said they did. Larry asked Brett to draft a bulletin for the next meeting.

- **New Business**

- **Presentation to Outgoing Commission Members** / Brett

Brett presented a plaque and letter from the Governor Herbert to both Dirk and Jerry thanking them for their service as Commission members. A member of the Department will deliver a plaque and letter to Cort.

- **Appointment of New Commission Members** / Brett

Brett read a letter from Governor Herbert to Senate President Niederhauser recommending three replacements to the Commission; Jeffry Wiener, Matthew Sager, and Sylvia Andersen. On June 19 the Senate will consider and vote on these appointments. Perri alerted the Commission to the fact that if the Senate does not approve the Governor's recommendation then the current Commission members must remain until they approve their replacements.

- **Other Business - None**

*Executive Session (Closed to Public)*

*General Session: (Open to the Public)*

- **Adjourn:** At 10:04am Dirk made a **motion** to adjourn. The vote was unanimous.
- **Next Meeting: August 12** Spruce Room

**2013 Meeting Schedule** in Spruce Room  
(2<sup>nd</sup> Monday except holidays, then 3<sup>rd</sup> Monday)

<del>Jan 14</del>	<del>Feb 11</del>	<del>Mar 11</del>	<del>Apr 8</del>	<del>May 13</del>	June 10
<del>July 8</del>	Aug 12	Sep 9	Oct 21	Nov 18	Dec 9